

Service Date: September 24, 1992

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER Of the Application) UTILITY DIVISION
By The Montana Power Company for)
Authority to Increase Rates for) DOCKET NO. 90.6.39
Natural Gas and Electric Service.) ORDER NO. 5484y

ORDER DENYING MOTION FOR LEAVE TO FILE ADDITIONAL BRIEF

BACKGROUND

1. The Montana Public Service Commission (Commission) held a public hearing on July 14-15, 1992 on two additional issues arising out of earlier proceedings in this Docket: "FOGwire" and the Reciprocal Sharing Agreement.
2. At the conclusion of the hearing Montana Power Company (MPC) and the Montana Consumer Counsel (MCC} were directed to file simultaneously initial briefs on August 14, 1992 and reply briefs on August 28, 1992. Both parties submitted timely briefs.
3. On September 8, 1992 the Commission received a Motion for Leave to File an Additional Brief from MPC alleging that two statements were made in MCC's Reply Brief for the first time and were in error. MPC desired to file its additional brief so that "a review at this time may prevent the need for reconsideration ... at a later time...."
4. MCC filed its Opposition to Motion for Leave to File an Additional Issue on September 11, 1992. MCC opposed MPC's motion arguing that there was adequate time after the hearing for briefing and the Commission should not permit numerous briefs rearguing points raised in briefs. MCC further stated

that the Commission can draw its own factual conclusions from the record and that MPC has protection in reconsideration and appeal provisions.

FINDINGS OF FACT AND DISCUSSION

5. The Commission finds that the Motion for Leave to File an Additional Brief should be denied. The Commission will base its decision on substantial evidence in the record and the Commission's interpretation of the law. If MPC has a quarrel with the Commission's decision, it may move for reconsideration and/or petition for judicial review. The Commission recognizes MPC's concern not to leave a stone unturned. However, the Commission cannot allow interminable briefing, examination and arguments on statements with which parties take issue.

CONCLUSIONS OF LAW

6. The Commission exercises jurisdiction over public utilities pursuant to Title 69, Chapter 3, Montana Code Annotated (MCA).

7. The Commission. has the power to prescribe rules of procedure and to do all things necessary and convenient in the exercise of its powers, including regulating the manner of hearings of public utilities and other parties before it.

8. The Commission shall dispose of motions promptly in the exercise of its discretion. ARM 38.2.1501.

ORDER

WHEREFORE, the Commission hereby denies Montana Power Company's Motion for Leave to File Additional Brief.
Done and Dated this 14th day of September, 1992 by a vote of 2-1.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DANNY OBERG, Chairman
(Voting Dissent)

JOHN B. DRISCOLL, Commissioner

TED C. MACY, Commissioner

ATTEST:

Ann Purcell
Acting Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.